UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,769	07/25/2003	Vladimir Portnykh	Q74805	1853

23373	7590	12/12/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
BOTTS, MICHAEL K

ART UNIT	PAPER NUMBER
2176	

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/626,769	PORTNYKH, VLADIMIR
	Examiner	Art Unit	
	Michael K. Botts	2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 September 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>25 July 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This is a Final Office Action on the merits.   This action is responsive to the following communication: Amendment Under 37 CFR 1.111, which was filed on September 29, 2006.

2.   Claims 1-24 are currently pending in the case, with claims 1, 3, 11, 13, and 17 being the independent claims.

3.   The Abstract of the Disclosure was objected to. Applicant has appropriately amended the abstract. Accordingly, the objection is withdrawn.

4.   The specification was objected to. Applicant has appropriately amended the specification. Accordingly, the objection is withdrawn.

5.   Claims 1-24 were rejected under 35 U.S.C. 112, second paragraph. Applicant has created an appropriate record regarding the limitations to the interpretations of the cited terms. Accordingly, the rejections are withdrawn.

6.   Claims 1-24 are rejected.

The Specification

7.   Applicant is reminded of the continuing requirement to update the status (pending, allowed, etc.) of all parent priority applications in the first line of the specification, when appropriate, and the status of all citations of U.S. filed applications in the specification should also be updated, when appropriate.

Claims Rejections – 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   **Claims 1-9 and 11-23** are rejected under 35 U.S.C. 102(b) as being clearly

anticipated by Dekel, International Application Number: PCT/US99/31023, International

Publication Number: WO 00/39997, published July 6, 1000) [hereinafter "Dekel"].

Regarding **independent claim 1, as amended**, Dekel teaches:

A nonlinear video editing method comprising:

expressing a user action to be selected and performed as a template that

includes a component, wherein the user action is described in an extended

Markup Language (XML) and the component comprises information regarding a

plurality of input parameters used in the use action and a plurality of output

parameters which are output as results of the user action; and

performing the user action and rendering a result of the user action.

(See, Dekel, pages 5-18, specifically, page 8, lines 9-12, teaching video editing with

templates described in XML.)

Regarding **dependent claim 2, as amended**, Dekel teaches:

> *The method of claim 1, wherein the component comprises information on at least one of:*
>
> *a name of the user action to be performed; and*
>
> *a level of access to the user action.*

(See, Dekel, figure 8, teaching user actions that may be selected and performed.)

Regarding **independent claim 3, as amended**, Dekel teaches:

> *A nonlinear video editing method comprising:*
>
> *initializing a plurality of available user actions;*
>
> *selecting one of the plurality of initialized available user actions, wherein each of the available user actions includes information regarding a plurality of input parameters used in a user action and a plurality of output parameters which are output as results of the user action;*
>
> *selecting input resources that perform the selected available user action;*
>
> *performing the selected available user action and examining results of the performed available user action; and*
>
> *confirming finishing of the available user action and rendering the results of the finished user action.*

(See, Dekel, figure 8, teaching user actions that may be selected and performed.)

Regarding **dependent claim 4, as amended**, Dekel teaches:

> *The method of claim 3, wherein the user action includes information on at least one of:*
>
> *a name of the user action to be performed;*
>
> *a number of input parameters used in the user action; and*
>
> *a level of access to the user action.*

(See, Dekel, figure 2, and page 7, lines 20-28, teaching parameters for user action.)

Regarding **dependent claim 5**, Dekel teaches:

> *The method of claim 3, wherein the input resources include a transform that denotes transitions and effects that describe a user action to be performed, a physically existing real video clip, and a virtual union of the transform and the real video clip.*

(See, Dekel, figures 3 and 8, and page 7, line 20 through page 8, line 30, specifically page 8, lines 6-8, teaching the name.)

Regarding **dependent claim 6**, Dekel teaches:

> *The method of claim 3, wherein, in the rendering step, the results include a list of performed user actions, logical results of user actions performed prior to the rendering step, and real video files.*

(See, Dekel, page figures 3 and 8, and page 7, line 20 through page 8, line 30, teaching

the list of the "style" which is the logical results of the user actions.)

Regarding **dependent claim 7**, Dekel teaches:

> *The method of claim 3, wherein the available user actions include a*
>
> *resource importing action, a resource closing action, an editing result deleting*
>
> *action, an editing result exporting action, a clip splitting action, a clip merging*
>
> *action, and a clip inserting action.*

(See, Dekel, pages 5-18, teaching the creation and editing of the video, including the

specified actions.)

Regarding **dependent claim 8**, Dekel teaches:

> *The method of claim 7, wherein the resource importing action receives*
>
> *local files from an external source or data from a digital camera or an Internet*
>
> *streaming source, and edits the received files and data.*

(See, Dekel, page 5, lines 9-16, teaching creation of the video through retrieval of

different source materials.)

Regarding **dependent claim 9**, Dekel teaches:

> *The method of claim 7, wherein the editing result exporting action stores*
>
> *the editing results in a unique data format designated by a user.*

(See, Dekel, figure 8, element 142, teaching outputting the resultant movie "to video, video tape recorder, or video streaming server," any one of which sources would have a unique data format necessarily designed by the user for the exportation.)

Regarding **independent claim 11, as amended**, Dekel teaches:

A nonlinear video editing apparatus comprising:

a user action initialization unit that initializes available user actions;

a user action input unit that receives a user action selected by a user from the initialized available user actions wherein each of the available user actions includes information regarding a plurality of input parameters used in the user action and a plurality of output parameters which are output as results of the user action;

a resource input unit that receives input resources used to perform the selected user action;

a user action performing unit that performs the selected user action based on the respective outputs of the user action initialization unit, the user action input unit and the resource input unit;

a result examining unit that examines results of the performed selected user action; and

a rendering unit that confirms finishing of the selected user action and renders the results of editing.

(Claim 11 incorporates substantially similar subject matter as claimed in claim 1 and is rejected along the same rationale.)

Regarding **dependent claim 12, as amended**, Dekel teaches:

The apparatus of claim 11, wherein the user action includes at least one of information on:

a name of the user action to be performed; and

a level of access to the user action.

(Claim 12 incorporates substantially similar subject matter as claimed in claim 2 and is rejected along the same rationale.)

Regarding **independent claim 13**, Dekel teaches:

A graphic user interfacing method in a nonlinear video editor, comprising:

presenting available user actions to a user and providing a display for receiving a user action selected by the user wherein each of the available user actions includes information regarding a plurality of input parameters used in the user action and a plurality of output parameters which are output as results of the user action;

providing a source file display for presenting and displaying a source file used to perform the selected user action; and

providing a result display for displaying results of the selected user action performed using the source file selected by the user.

(Claim 13 incorporates substantially similar subject matter as claimed in claim 1 and, in consideration of the following, is rejected along the same rationale. See, Dekel, figure 2, and page 3, lines 12-20, teaching a graphical user interface, in particular in use with windows type programs.)

Regarding **dependent claim 14**, Dekel teaches:

> *The method of claim 13, wherein each of the available user actions is expressed in a resource that represents input files used to perform the user action, a transform that denotes one of a transition and an effect used to describe the user action with respect to the resource, and a virtual union of the resource and the transform.*

(See, Dekel, pages 1-18, specifically, page 7, line 20 through page 8, line 30, teaching the list of the "style" which is the logical results of the user actions and which transforms the input to perform the user action to the desired effect.)

Regarding **dependent claim 15**, Dekel teaches:

> *The method of claim 14, wherein the resource includes information on a time to start displaying the resource, a time to stop displaying the resource, a time to start editing the resource, a time to stop editing the resource, a name of a resource file, and whether sound is available.*

(See, Dekel, page

Regarding **dependent claim 16**, Dekel teaches:

> *The method of claim 14, wherein the virtual union includes information on*
>
> *a time to start editing the resource, a time to stop editing the resource, and*
>
> *whether sound is available.*

(See, Dekel, figure 8, teaching starting and stopping video clips, and the availability of

sound.)

Regarding **claims 17 and 18, as amended**:

Claims 17 and 18 incorporate substantially similar subject matter as claimed in

claims 3 and 4, respectively, and are rejected along the same rationale.

Regarding **claims 19-23** :

Claims 19-23 incorporate substantially similar subject matter as claimed in claims

5-9, respectively, and are rejected along the same rationale.

9.   It is noted that any citations to specific, pages, columns, lines, or figures in the

prior art references and any interpretation of the references should not be considered to

be limiting in any way. A reference is relevant for all it contains and may be relied upon

for all that it would have reasonably suggested to one having ordinary skill in the art.

See, MPEP 2123.

Claims Rejection – 35 U.S.C. 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   **Claims 10 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Dekel, International Application Number: PCT/US99/31023, International

Publication Number: WO 00/39997, published July 6, 1000) [hereinafter "Dekel"].

Regarding **dependent claim 10**, Dekel teaches:

The method of claim 9, wherein the unique data format is MPEG-2.

(Dekel does not expressly teach that the unique data format is MPEG-2. It would have

been obvious to one of ordinary skill in the art at the time of the invention to have

exported the resultant video data in MPEG-2 format in that MPEG-2 is a standard and

well recognized format described in International standards of the ISO and intended to

be used for video formatting. See, "MPEG-2, Short MPEG-2 description," ISO/IEC,

October 2000, downloaded May, 28, 2006 from:

www.chiariglione.org/mpeg/standards/mpeg-2/mpeg-2.htm, downloaded pages 1-5.)

Regarding **dependent claim 24**:

Claim 24 incorporates substantially similar subject matter as claimed in claim 10 and is rejected along the same rationale.

11.   It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See, MPEP 2123.

Response to Arguments

Applicants' arguments filed September 29, 2006 have been fully considered, but they are not persuasive.

Regarding rejections of claims 1, 3, 11, 13, and 17:

Applicants argue that the reference, Dekel, fails to teach or suggest "a plurality of output parameters which are output as results of the user action." See, Amendment, pages 15-19. Applicant argues in more detail that "Dekel's movie template 40 only includes components that are used to determine a <u>single</u> video clip. Since each of the components in Dekel's movie template 40 only determine a <u>single</u> video clip, the components in Dekel's movie template 40 cannot possible comprise information regarding a <u>plurality</u> of input parameters used in the user action and a <u>plurality</u> of output

parameters which are output as results of the user action, as recited in claim 1." See, Amendment, page 16, emphasis in the original.

The Examiner disagrees.

Dekel teaches "at least one video item." See, Dekel, page 2 lines 14-34. Dekel is therefore not limited to "a single video clip," as argued by the Applicant.

The claim does not specify a plurality of video clips. It specifies merely a plurality of input parameters and resulting output parameters. Dekel teaches a plurality of input parameters, including "a style parameter" which defines a variety of parameters including text, sound, graphical, horizontal position, vertical position, size, color, and layering. See, Dekel, page 2, lines 14-34.

Additionally, it is noted that Applicant argues, but does not claim, a plurality of input and output parameters including split, insert, merge or transform. See, Amendment, page 16. Since these parameters are not claimed the reference is not required to teach or suggest them.

Regarding rejections of claims 10 and 24:

Applicants argue that since Dekel does not teach the elements of claims 3 and 17, as argued above, it does not teach the obvious limitations specified in claims 10 and 24. See, Amendment, page 20.

The Examiner disagrees.

No additional deficiencies in grounds for rejection are argued by Applicant. Therefore, dependent claims 10 and 24 are rejected at least based on their

dependencies on independent claims 3 and 17, respectively.

Conclusion.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael K. Botts whose telephone number is 571-272-

5533. The examiner can normally be reached on Monday through Friday 8:00-4:00

EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MKB/mkb

Heather R. Herndon
Supervisory Patent Examiner
Technology Center 2100